

MRS. MILDRED LEWIS MORGAN

JUNE 27, 1952.—Ordered to be printed

Mr. McCARRAN, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 728]

The Committee on the Judiciary, to which was referred the bill (H. R. 728) for the relief of Mrs. Mildred Lewis Morgan, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

The purpose of the bill is to enable a former native-born citizen of the United States to regain her citizenship which was lost by voting in a political election in New Zealand.

STATEMENT OF FACTS

The beneficiary of the bill was born in Chateaugay, N. Y., on January 14, 1908. She was married to a British subject in 1941 and in 1945 she went to New Zealand to join her husband. She lost her citizenship by voting in a New Zealand election on November 27, 1946. She has two minor children who are United States citizens.

A letter dated January 24, 1952, to the chairman of the Committee on the Judiciary of the House of Representatives from the Deputy Attorney General with reference to the case reads as follows:

JANUARY 24, 1952.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.

MY DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice relative to the bill (H. R. 728) for the relief of Mrs. Mildred Lewis Morgan, an alien.

The bill would provide that Mrs. Morgan, who lost her United States citizenship by voting in the parliamentary elections in New Zealand in 1946, may be naturalized by taking, prior to 1 year from its enactment, before any naturalization court specified in subsection (a) of section 301 of the Nationality Act of 1940, as amended, or before any diplomatic or consular officer of the United States abroad, the oaths prescribed by section 335 of that act. It would further provide that after such naturalization she shall have the same citizenship status as that which existed immediately prior to its loss.

The files of the Immigration and Naturalization Service of this Department disclose that Mrs. Morgan was born in Chateaugay, N. Y., on January 14, 1908, and that she lost her United States citizenship by voting in a national election in New Zealand on November 27, 1946. Mrs. Morgan last entered the United States on July 20, 1950, with her two minor children who are citizens of the United States. At that time she was in possession of a British passport and a visitor's visa and was admitted under section 3 (2) of the Immigration Act of 1924 for a period of 6 months. She has not applied for an extension of her temporary stay and is considered as being unlawfully in the United States at this time.

Mrs. Morgan has stated that on June 14, 1941, she married a British subject, Mr. Llewellyn Morgan, in England. She returned to the United States in October 1941 and remained until 1945, when she proceeded to New Zealand to join her husband. She claims that during her residence abroad she registered with the American Foreign Service as a United States citizen, and that in June 1950 she applied to the American consul at Auckland, New Zealand, for a passport to enable her to return to the United States. It was then ascertained that she had voted in the New Zealand parliamentary election on November 27, 1946, whereupon the American consul concluded that she had lost her American citizenship under section 401 (e) of the Nationality Act of 1940. The consul submitted to the Department of State a certificate of loss of nationality pursuant to section 501 of the act of October 14, 1940, which certificate was approved by the Department of State on June 26, 1950. Shortly thereafter she was documented as an alien for the purpose of coming to the United States to visit her father.

When interviewed on May 3, 1951, Mrs. Morgan stated that she had separated from her husband, is receiving no support from him, does not intend to return to him, and desires to be permitted to remain indefinitely in the United States so that she can educate her children in this country. Since October 1950 she has been employed as a registered nurse at the Alice Hyde Hospital, Malone, N. Y., through which employment she supports herself and children. She resides with her parents in Malone.

Section 401 (e) of the Nationality Act of 1940 provides that a person who is a national of the United States, whether by birth or naturalization, shall lose his nationality by voting in a political election in a foreign state or participating in an election or plebiscite to determine the sovereignty over a foreign territory. Mrs. Morgan, therefore, is considered as having expatriated herself by voting in the national elections in New Zealand on November 27, 1946. Inasmuch as she has lost her United States citizenship, she is subject to the immigration and naturalization laws applicable to aliens. In the event she is made the subject of deportation proceedings as an alien who has remained in the United States longer than permitted after admission as a visitor, she can file an application for suspension of deportation if she can establish that her deportation would result in a serious economic detriment to her minor United States citizen children. She has not, therefore, exhausted her administrative remedy. Moreover, the record fails to present considerations justifying the enactment of special legislation to permit Mrs. Morgan to regain her United States citizenship by exempting her from the general provisions of the nationality laws.

Accordingly, this Department is unable to recommend enactment of the bill.

Sincerely,

A. DEVITT VANECH,
Deputy Attorney General.

Additional information is contained in the following letter dated April 23, 1951, to the chairman of the Committee on the Judiciary of the House of Representatives from the Assistant Secretary of State:

DEPARTMENT OF STATE,
Washington, April 23, 1951.

HON. EMANUEL CELLER,
*Chairman, Committee on the Judiciary,
House of Representatives.*

MY DEAR MR. CELLER: The Department has received your letter of April 13, 1951, enclosing copies of H. R. 728, a bill for the relief of Mrs. Mildred Lewis Morgan, and requesting a report of the facts of the case as disclosed in the Department's files and an expression of opinion as to the merits of the bill. It appears from the passport file relating to Mildred Lillian Lewis Morgan that she was born at Chateaugay, N. Y., on January 14, 1908, of native American parents; that she resided in the United States from birth to 1940, when she traveled to England with a unit of the American Hospital in Britain, Ltd., for employment as a nurse; that she was married in England on June 14, 1941, to Llewellyn Morgan, a British subject; that she returned to the United States in October 1941; and that, in 1945, she proceeded to New Zealand to join her husband. During her residence abroad, Mrs. Morgan has been registered in American Foreign Service offices as an American citizen. In June 1950, when Mrs. Morgan applied for a passport at the American consulate at Auckland, New Zealand, to enable her to travel to the United States, it was ascertained that she had voted in the New Zealand parliamentary election on November 27, 1946, and had lost her American citizenship under section 406 (e) of the Nationality Act of 1940. The consulate thereupon submitted to the Department a certificate of loss of nationality pursuant to section 501 of the Nationality Act of 1940. This certificate was approved by the Department on June 26, 1950. Shortly thereafter, Mrs. Morgan was documented as an alien for the purpose of coming to the United States to visit her father. The records of the Department do not show whether she remained in this country.

In view of Mrs. Morgan's long residence in the United States, her service as a nurse in England during World War II, and the fact that she has stated under oath that she was not aware that her act of voting in the New Zealand parliamentary election would result in the loss of her American citizenship, this Department interposes no objection to the enactment of H. R. 728 into law.

Sincerely yours,

JACK K. McFALL,
Assistant Secretary
(For the Secretary of State).

The committee, after consideration of all the facts in the case, is of the opinion that the bill (H. R. 728) should be enacted.



